

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA

\*

v.

\* Criminal No.: 1:19-CR-00438-RDB-1

JAMIE CLEMONS

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DEFENDANT'S RESPONSE TO GOVERNMENT'S SUPPLEMENTAL MOTION TO  
STRIKE RULE 16 NOTICE, EXCLUDE DEFENDANT'S EXPERTS

Now comes Jamie Clemons by Howard L. Cardin and Cardin & Gitomer, P.A. and David N. Mabrey, his attorneys and respectfully submits this response to the Government's Supplemental Motion to Strike Rule 16 Notice, Exclude Defendant's Experts.

RESPONSE

The Government's Supplemental Motion to Strike Rule 16 Notice, Exclude Defendant's Experts uses the terminology that the supplemental report "goes on to sow seeds of doubt". This is exactly what the defense will be submitting to the trier of fact during the course of the trial. The defense having submitted extensive initial reports and supplemental reports has now demonstrated to the government, the weaknesses of its case. In spite of defense objections, the Court has required the defense to provide the roadmap of its defense. Obviously, the government did not expect the defense to do so.

Dr. Karl Reich and Raymond O'Brocki are experts in their respective fields as previously determined by the Court. The supplemental reports respond to the concerns of this Court, laying out piece by piece the considerations given to the information provided by the government and the significance of each. Applying their expertise to each piece of information, the opinions voiced are supported by a strong foundation: a much more in depth and reliable opinion and conclusion than that provided by the proposed government experts.

Apparently, the government is offended by the fact that the defense seeks to test and refute the opinions voiced by government experts. Apparently, the government believes that the defense should rubberstamp the forensic work of the government "experts". The facts stated in the supplemental reports are not refuted. The supplemental report actually alerts to Court to additional facts, some of which were actually requested by the Court, i.e. the determination that the second contributor is female.

There is always a clear and present danger that juries, being lay persons, will automatically digest the words and conclusions offered by "experts". As a result, many an innocent person has been convicted of offenses which he or she did not commit. The Court's attention is directed to United States v. Hebshie, 754 F. Supp. 2d 89 rendered in the United States District Court, D. Massachusetts on November 15, 2010. This is an exhaustive review of the importance of expert testimony and its relationship to a Daubert Hearing.

#### CONCLUSION

Counsel on behalf of their client submits that the defense has a right to be heard even if it contradicts the position of the prosecution. The government cannot cover up the weaknesses of its case by preventing the defense from exercising its right to attack and dispute the prosecutions theory.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that on this 15th day of January, 2021, I filed the above electronically with the Clerk of the United States District Court using CM/ECF with copies to all counsel of record.

/S/

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HOWARD L. CARDIN